XI-MC—78

13/11/07

(18)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A(C) No.1239 of 2007

Appellant

1. Ramesh Kumar, S/o late Bhukhau Satnami, Aged about 34 years.
2. Gopal Das S/o late Bhukhau Satnami, Aged about 37 years .
3. Sawal Das, S/o late Bhukhau Satnami, Aged about 40 years, All are resident of Vill. Baigakapa Police Station – lalpur,Tah. –Lormi, District Bilaspur (C.G.)

Versus

RESPONDENTS

1. Lakhan Lal, S/o Sakoli Ram Gandharva, Aged about 41 years, Driver Vehicle No.CG-12/ZC/1136, R/o Village Tusi Ghat P.S. & Tah. – Lormi, District Bilaspur (C.G.)
2. Umashankar , S/o Kejaram Patley, Aged about 36 years, Owner Vehcile No.C.G.12/ZC/1136, R/o Vill. Khamharia, P.S. Hardibazar, District Korba (C.G.)
3. National Insurance Company Ltd., Minu Complex, District Korba (C.G.)

Misc. Appeal u/s 173 of the Motor Vehicles Act.

Appearance:

Shri Azad Siddique, Counsel for the appellant.

D.B: **Hon'ble Shri Justice L.C. Bhadoo, J &**
Hon'ble Shri Justice Sunil Kumar Sinha, J.

ORAL ORDER
(06.11.2007)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक M.A.(C.C.)-1239/07 **सन्** ~~200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

L.C.Bhadoo, J.

Heard.

The appellants/claimants have preferred this appeal under Section 173 of the Motor Vehicles Act for enhancement of the compensation amount being aggrieved with the award dated 20.07.2007 passed by Additional Motor Accidents Claims Tribunal, Mungeli, District Bilaspur in Claim Case No.43/2006.

Learned counsel for the appellants argued that the deceased was aged about 58 years at the time of accident, therefore, multiplier of 8 ought to have been applied instead of multiplier of 5. He also argued that the deceased was earning Rs.100/- per day by selling milk, which has not been believed by the Tribunal. This finding is contrary to the record.

Having heard learned counsel for the appellants, we have perused the impugned award.

So far as age of the deceased is concerned, in para 17 of the award, learned Tribunal has recorded that in the merg intimation (Ex.-A/3), inquest report (Ex.-A/4), and also in the requisition and postmortem report (Ex.A/5), the age of the deceased was written as 62 years, therefore, in view of these documents, the Tribunal reached to the conclusion that the deceased was aged 62 years. This finding is based on material available on record, which cannot be said to be perverse and contrary to the record, therefore, the Tribunal has rightly

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मामला क्रमांक M.A.(C.C.)-1239/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

reached to the conclusion that the age of the deceased was 62 years and a correct multiplier of 5 has been applied.

In view of the above, there is no illegality or infirmity in this finding of the Tribunal.

So far as income is concerned, Ramesh Kumar – appellant No.1 filed an affidavit saying that his mother was selling milk, through which she was earning Rs.100/- per day. After considering the above evidence, the Tribunal reached to the conclusion that the claimants were not able to establish and prove that the deceased was earning Rs.100/- per day by selling milk and ultimately, the yearly income of deceased has been assessed as Rs.15000/- on the basis of notional income. This finding looking to the material available on record is correct and after deducting 1/3rd expenses of the deceased on herself, remaining 2/3rd i.e. Rs.10,000/- has been assessed as the loss of income. This finding also cannot be said to be suffering from any illegality or infirmity.

In view of the above, we are of the considered opinion that there is no merit in this appeal and the same is liable to be dismissed and is dismissed at the motion stage itself.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

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